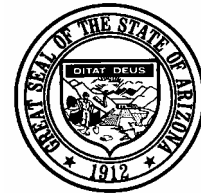


ARIZONA

TAXNEWS



Janet Napolitano, Governor

J. Elliott Hibbs, Director

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KERR UPDATE

In 1994 the Arizona Court of Appeals issued a decision that held that Arizona's statutory scheme that exposed federal employees to taxation on the amount of their contributions to their retirement plan was unconstitutional because it violated the intergovernmental tax immunity doctrine. *Kerr v. Waddell*, 183 Ariz. 1, 899 P.2d 162 (App.1994). For several years prior to that decision the Department had put a protective claim form in the tax booklet for federal employees to use to protect their potential refund rights while the case was in litigation. Following this

finding of unconstitutionality, the Department offered federal employee taxpayers the option to subtract their contributions from Arizona taxable income while warning them that if the Department prevailed, they would be subject to potential audit. The Department of Revenue also appealed that decision to the Arizona Supreme Court which remanded the case back to the Court of Appeals to determine if it should have dismissed the lawsuit for failure of the plaintiffs to exhaust their administrative remedies. In 1996 the Court of Appeals ordered the case

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ARIZONA DEPARTMENT OF REVENUE

MISSION STATEMENT

The purpose of the Arizona Department of Revenue is to promote voluntary compliance with all tax obligations through fair administration, firm enforcement, and prompt and courteous service in a manner that justifies the highest degree of public confidence in our efficiency and integrity.

WE'RE ON THE WEB!

The Arizona Tax News can be viewed on our Internet website:

www.revenue.state.az.us

USE E-FILE FOR LAST MINUTE RETURNS

As the April filing deadline fast approaches, consider the benefits of electronic filing for the procrastinators and tax due filers that will be swarming your office shortly.

- Most people who put off filing their returns do so because they believe they will owe tax. During April 1 – 15, 2002, the department received more than ½ million returns of which nearly 50% received refunds! Encourage your clients to e-file and select the direct deposit option because 98% of direct deposit refunds reach the taxpayer's account in less than 7 days from acceptance of the e-filed return. In addition to the convenience of a paperless transaction, your client benefits

from the accuracy of electronic filing and receives a confirmation as proof that their return was filed.

- Electronic Funds Withdrawal (AKA Direct Debit) is only available with e-filing and eliminates the need to send a paper payment or return to the department. For more on Electronic Funds Withdrawal see our website at www.revenue.state.az.us.

For those folks who are reluctant to use direct debit to pay the tax due, encourage them to e-file the return and send the payment separately. This method provides your client all the benefits of e-filing, but still allows them the ability to control the payment method. If your client chooses this method, it is important

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*** * * REMINDER * * ***

FOR NON-EFT TPT FILERS

To avoid a delinquency, postmark your February 2003 TPT return no later than March 25, 2003 or deliver to DOR no later than March 28, 2003.

December Summary of General Fund Revenues

	<u>December 2002</u>	<u>Fiscal Year Total</u>
Individual Income Tax		
Net Collections	\$206,378,085	\$978,537,680
Percent Change*	(0.7%)	(4.4%)
Corporate Income Tax		
Net Collections	\$38,450,543	\$151,968,103
Percent Change*	(26.6%)	(9.9%)
Transaction Privilege, Severance & Use Taxes		
Net Collections	\$241,562,128	\$1,481,997,026
Percent Change *	4.8%	1.7%
Total Big Three Tax Types		
Net Collections	\$486,390,756	\$2,612,502,809
Percent Change*	(0.9%)	(1.4%)

() Decrease from same month last year.

* Percent change from same month last year.

**Individual Income Tax
Individual Income Tax Receipts**

	<u>December 2002</u>	<u>December 2001</u>	<u>% Change</u>
Gross Collections	\$48,809,634	\$38,439,004	27.0
Withholding	209,371,110	208,972,030	0.2
Refunds	(15,922,737)	(4,488,571)	258.1
Urban Rev Sharing	(35,879,921)	(35,156,381)	2.1
Net Collections	\$206,378,085	\$207,766,082	(0.7)

	<u>(02/03)</u>	<u>(01/02)</u>	<u>% Change</u>
Fiscal Year Total			
Gross Collections	\$165,054,010	\$169,947,472	(2.9)
Withholding	1,131,384,362	1,166,598,702	(3.0)
Refunds	(102,621,166)	(102,554,502)	0.1
Urban Rev Sharing	(215,279,526)	(210,938,286)	2.1
Net Collections	\$978,537,680	\$1,023,053,386	(4.4)

Included in the refund amounts above are refunds relating to the alternative fuel vehicle income tax credit. After offsetting \$83,996 in tax liability, refunds for this credit totaled \$599,150. This amount does not include withholding and estimated payments returned to taxpayers because their liability was covered by the alternative fuel vehicle credit.

TAX CALENDAR

MARCH 2003

<u>Due Date</u>		<u>For Period Ending</u>
17	Income Tax Returns:	11/30/02
	Form 120: Corporation	
	Form 140: Individual	
	Form 141: Fiduciary	
	Form 165: Partnership	
	Form 99T: Exempt Organization	
17	Form 120: Corporation with Automatic Extension	5/31/02
17	Form 120S: S Corporation	12/31/02
17	Form 99: Exempt Organization Annual Information Return	10/31/02
17	Form 120ES: Estimated Tax Payment, Corporation	
	First Installment	11/30/03
	Second Installment	9/30/03
	Third Installment	6/30/03
	Fourth Installment	3/31/03
20	Form TPT-1: Transaction Privilege Tax February Monthly Filers	2/28/03
20	Bingo: Financial Reports	2/28/03
20	Luxury Tax: Various Forms	2/28/03
25	EFT Form TPT-1 and Payment: Transaction Privilege Tax: February Monthly Filers	2/28/03

Withholding Tax Payment Information:

If the average amount of Arizona income taxes withheld in the preceding four calendar quarters **exceeds** \$1,500 the employer must make its Arizona withholding payments to the Department of Revenue at the same time as the employer is required to make federal withholding deposits.

If the average amount of Arizona income taxes withheld in the preceding four calendar quarters **does not exceed** \$1,500 the employer must make its Arizona withholding payments to the department on a quarterly basis.

The *Arizona TaxNews* is a monthly publication of the Arizona Department of Revenue. Information contained herein is of a general nature and is not designed to address complex issues in detail. Taxpayers requiring information concerning a specific tax matter should contact the appropriate office. This newsletter is available in an alternative format upon request. Subscription information may be obtained from the Publications Unit at 602-542-4672 or toll free from area codes 520 & 928, 1-877-863-0655.

ACCENTURE RECEIVES FIRST PAYMENT FOR BRITS

The BRITS (Business Reengineering/Integrated Tax System) project has started paying dividends to the citizens of Arizona and to our business partner, Accenture. Accenture received their first payment in February reflecting increased collections due to the implementation of Seisint skip tracing software. The BRITS contract with Accenture calls for payment when there is increased revenue as a result of their reengineering efforts. This kind of contract is said to be “benefits funded”, with the vendor being paid from the increased revenue flows. These

Public/Private partnership agreements were authorized with the passing of ARS 41-2559 and allow state agencies to enter into agreements with vendors to upgrade their capabilities without a negative impact on the general fund. The contract, estimated to cost \$120 million, is projected to bring in over \$400 million in additional revenue over the next ten years. Benefits funded projects are also proving to be popular in other states including Kansas, Virginia, Hawaii, and California.

CHANGE IN TOWN TAX CODE—FOUNTAIN HILLS EFFECTIVE APRIL 1, 2003

The Mayor and Town Council of the Town of Fountain Hills passed ordinance 03-01. Ordinance 03-01 increases the Fountain Hills Town Privilege Tax from 1.6% to 2.6%. The tax rate increase affects the following classifications:

Amusements; Construction Contracting;
Job printing; Manufactured buildings;
Timbering & other extraction; Publishing;
Hotels; Rental of real property; Rental of

tangible personal property; Restaurants and Bars; Retail sales;
Telecommunications; Transporting for hire; Utilities and Use Tax.

This increases imposed by this ordinance shall not apply to contracts entered into prior to the effective date of the ordinance. **Pre-existing contracts** should be reported using **CODE FH8** at a rate of **1.6%**.

Change in Town Tax Code—Marana Effective April 1, 2003

The Mayor and Town Council of the Town of Marana passed ordinance 2003.03. Ordinance 2003.03 deletes Local Option H. Deleting

option H has the effect of making Health spa membership fees exempt.

From the IRS...

IRS UNVEILS OFFSHORE VOLUNTARY COMPLIANCE INITIATIVE; CHANCE FOR "CREDIT CARD ABUSERS" TO CLEAR UP THEIR TAX LIABILITIES

Internal Revenue Service officials have announced the launch of an initiative aimed at bringing taxpayers who used "offshore" payment cards or other offshore financial arrangements to hide their income back into compliance with tax law.

Under the Offshore Voluntary Compliance Initiative, eligible taxpayers who step forward will not face civil fraud and information return penalties. However, taxpayers will still have to pay back taxes, interest and certain accuracy or delinquency penalties.

The Initiative reflects an attempt to bring taxpayers back into compliance quickly while simultaneously gathering more information about the promoters of these offshore schemes. As part of the request to participate, the taxpayer must provide full details on those who promoted or solicited the offshore financial arrangement. The IRS will use this information to pursue promoters.

Under the Initiative, eligible taxpayers will have to file or amend their returns and pay interest and certain civil penalties, as well as the tax. For example, a taxpayer who understated his income to avoid \$100,000 in taxes in 1999 would wind up paying \$149,319 to the government. This includes the tax liability plus \$29,319 in interest and an additional accuracy-related penalty of \$20,000. If a taxpayer did not step forward, his tax liability generally would include the civil fraud penalty of \$75,000, and therefore higher interest of \$42,758. The total

amount due would be \$217,758, without considering probable additional civil penalties for failure to file certain information returns.

To apply for the Initiative, taxpayers must notify the IRS in writing and provide their name, taxpayer identification number, current address, daytime phone number and certain promoter information. The last day a taxpayer can apply is April 15, 2003.

Written requests for the Voluntary Compliance Initiative can be sent to:

Regular Mail National Offshore Voluntary
Compliance Initiative
Coordinator
P.O. Box 480
Bensalem, PA, 19020

Overnight/Special Delivery
National Offshore Voluntary
Compliance Initiative
Coordinator
11601 Roosevelt Blvd.
Philadelphia, PA 19154
DP S6005

Those seeking information by telephone should call: 215-516-3537 (not toll-free). In addition, a special e-mail address, VCI@irs.gov, has been set up for taxpayer inquiries. More information on the Initiative can be found on the IRS Web site at www.irs.gov.

INFORMATION REQUEST REMINDER

When calling the department's Taxpayer Information and Assistance section, please have a copy of your Arizona tax return ready in order to help expedite the call. If you are a representative calling on behalf of a taxpayer,

you must have a valid Arizona Disclosure Form (Power of Attorney) on file with the department in order to obtain account specific information on behalf of your client.

Kerr Update

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dismissed for failure to exhaust administrative remedies. *Kerr v. Waddell*, 185 Ariz. 457, 916 P. 2d 1173 (App 1996).

While the Court of Appeals vacated its earlier decision, it did so on procedural, not substantive, grounds. In the decision vacating the earlier opinion it did not find that the opinion was erroneous. That left an outstanding Court of Appeals opinion (albeit vacated on procedural grounds) that the statutory scheme was unconstitutional. Accordingly, the Department left the claim form in the booklet and also left the optional subtraction on the tax form.

In the meantime the Kerr case went through the administrative appeals process and worked its way back up to the courts. In late August of 2001 the Court of Appeals decided that the taxing scheme in Arizona was constitutional as it applied to federal employee retirement contributions. *Kerr v. Killian*, 201 Ariz. 125, 32 P. 3d 408 (App 2001). Since there was no

longer an outstanding court decision finding the statute unconstitutional, the Department removed the subtraction from the tax form. In the 2002 tax year forms, the Department also removed the claim form.

The Kerr plaintiffs have asked the Court of Appeals to reconsider its decision. The request for reconsideration was granted and oral argument was held on September 11, 2002. No decision has been issued as of February 13, 2003.

Any federal employee wishing to protect his or her refund rights should the taxpayers ultimately prevail in this case may file a refund claim. Anyone doing so should make sure that the claim for refund meets all the statutory requirements: Each claim for refund shall be filed with the department in writing and shall identify the claimant by name, address and tax identification number. Each claim shall provide the amount of refund requested, the specific tax period involved and the specific grounds on which the claim is founded. A.R.S. § 42-1118.

Use E-file for Last Minute Returns

(Continued from page 1)

to remind them that their payment must be remitted with the Form AZ 140V – Payment Voucher for Electronic Filing in order to reduce the potential for any misapplied payment. Also, remind your client that the tax due must be paid in full by April 15th to avoid penalty and interest. Otherwise, applicable penalties and interest will be applied to the unpaid balance.

The AZ-140V and payment are to be addressed to:

Arizona Department of Revenue
AZ 140V
PO Box 29237
Phoenix, AZ 85038-9237

April 15th does not signal the end of the electronic filing season. See the Fed/State E-file Calendar (last page) for last date and condition in which an electronic return will be accepted by the department.

For those clients who need a little extra time, file the Form 204, Application for Filing Extension. Use the *paper* Form 204 ...

- if your client does not have a federal extension for the same period.
- to remit any extension payment necessary to meet the 90 percent requirement even if the

client is requesting a federal extension.

When electronically filing a return with a federal extension, be sure to check the appropriate field associated with the type of federal extension your client has been given. This will avoid problems during the processing of the Arizona return.

Reminder: Arizona will accept the federal extension for the same period.

DOR is still receiving AZ-8453s! Please **DO NOT** mail it unless either of the following conditions exists:

1. The taxpayer is filing a credit for taxes paid to another state or country (Credit 309). A copy of those returns should be attached to the AZ-8453 or AZ-8453 OL and mailed to the Department.
2. The ERO/ERP office is a VITA or TCE site. The AZ-8453 and all attachments must be mailed to the Department.

When required, mail the AZ-8453 or AZ-8453 OL and all attachments to:

Arizona Department of Revenue
AZ-8453 / AZ-8453 OL Processing
PO Box 29237
Phoenix, Arizona 85038-9237



FED/STATE E-FILE CALENDAR

Transmitting timely filed returns	April 15, 2003
Retransmitting rejected timely filed returns	April 20, 2003
Transmitting timely filed Forms 4868	April 15, 2003
Retransmitting rejected timely filed Forms 4868	April 20, 2003
Submitting new applications Form 8633	May 31, 2003
Transmitting timely filed Forms 4868 or 2350 to meet overseas exception	June 16, 2003
Retransmitting rejected timely filed Forms 4868 or 2350 to meet overseas exception	June 21, 2003
Transmitting returns on extension from Forms 4868	August 15, 2003
Retransmitting rejected returns on extension from Forms 4868	August 15, 2003
Transmitting timely filed Forms 2688	August 20, 2003
Retransmitting rejected timely filed Forms 2688	August 20, 2003
Transmitting late or returns on extension from filed Forms 2688	August 20, 2003
Retransmitting rejected late or returns on extension from filed Forms 2688	October 20, 2003